

Ohio Senate
Finance Committee, Corrections Subcommittee
H. BN. 64 and Sub H. B 64, Main Operating Budget FY 2016-FY2017
Interested Party Testimony
May 13, 2015

Dear Chairman Uecker and Members of the Sub-Committee:

My name is Dr. Julie Weatherington-Rice. I am a geologist and soil scientist. I am the Senior Scientist at the firm of Bennett and Williams Environmental Consultants Inc. in Westerville, Ohio and am an Adjunct Professor in the Department of Food, Agricultural and Biological Engineering, The Ohio State University here in Columbus. I provided extensive scientific testimony to the Ohio House of Representatives about sections of this original H. B. 64 as they affect the protection of the water and soils of Ohio, the protection of drinking water supplies and the adherence to Federal Program requirements that the State of Ohio is bound to honor. Since I understand the Senate will be considering both the original Budget Bill as written and as amended by the Ohio House, my original comments still apply. Therefore, I am attaching those original comments to this shorter introduction directed to the Ohio Senate. I am submitting these comments on behalf of the City of Canton's Water Department and on behalf of all public water supplies in Ohio who count on the availability of sufficient quantities of clean and safe water to provide the needed water supplies to the public that they serve.

There are two significant topics included in the original Budget Bill that have been removed from the Substitute House version. The first section is Section 1509.29 which amends the Ohio Revised Code regarding unitization of drilling sections for oil and gas permitting. This topic has also been addressed in House Bill 8 which I understand has been passed out of the House and is waiting for Senate consideration. In the event that it may be returned to the Senate version, I have retained my comments relating to that topic. I also plan to present significant testimony on H. B. 8 when it is heard in the Senate.

The second topic that has been removed is found in Section 6109.34 especially original lines 70715 to 70734 and Section 6111.05 especially lines 71617 to 71718 of the original Budget Bill. These amendments grant in the case of an emergency, the Ohio Environmental Protection Agency, the ability to collect chemical information, including Trade Secret information, and the ability to share that information with critically affected parties including public water suppliers. The Ohio Environmental Protection Agency desperately needs the ability to collect and share that information. There have been at least two events in the last several years, where the releases of oil and gas related chemicals have placed public water supplies at potential risk of contamination and in each case, the public water supply did not even know that their supply was at risk until days after the contaminated plume of chemicals had flowed downstream, past their intakes.

The two situations were triggered first, by the Ben Lupo organized discharge of drilling wastes into the Mahoning River at Youngstown which continued downstream past the Beaver

Falls, PA intake on the Mahoning River. The second event was the June 28, 2014 Monroe County Statoil Eisenbarth well pad fire where toxic water from the site flowed down Opossum Creek into the Ohio River and flowed past a public water supply intake on the WV side of the river, just 1.5 miles downstream from the mouth of Opossum Creek. In the first case, Beaver Falls PA never was officially notified of the clandestine spills, they learned about the illegal dumping on the news. In the second case, the Eisenbarth fire, Ohio Department of Natural Resources finally received information from the well pad owners and their associates two days after the fire began relating to the chemicals on site but they did not share that information with Ohio or US EPAs who had to ask for it again and finally received the lists five days after the fire began, long after all life was wiped from Opossum Creek. In the end, it was determined that several of the chemicals could not be identified in the water of Opossum Creek or the Ohio River because there were no water tests developed for them. So even if the public water supply in WV had known what was in their water, they could not have tested to see if it was there and at what level.

In point of fact, there already is a National process in place to make sure that public water supplies are not contaminated by instructing them to turn off their water intakes or wells drawing water from the rivers until all contamination is passed. This is both a Federal requirement under EPCRA and a regional monitoring program. The first requires that the National Response Center, manned 24 hours a day, seven days a week by the U.S. Coast Guard, be notified in the event of a spill. Their web page is <http://www.nrc.uscg.mil/> and the home page states that “Anyone witnessing an oil spill, chemical release or maritime security incident should call the NRC hotline at **1-800-424-8802**.” To the best of my knowledge, the National Response Center was never called by anyone, for either event. This is a Federal requirement and Ohio failed to follow this well established process. The second organization specifically charged with insuring that public water supplies in the Ohio River basin are protected is the Ohio River Valley Water Sanitation Commission or ORSANCO. On their home page at <http://www.orsanco.org/>, they state their mission, “Since 1948, ORSANCO and its member states have cooperated to improve water quality in the Ohio River Basin so that the river and its tributaries can be used for drinking water, industrial supplies, and recreational purposes; and can support a healthy and diverse aquatic community.” Again, to the best of my knowledge, ORSANCO was never notified about either emergency event, even though they were the logical organization to manage the protection of public water supplies on the Ohio River downstream from Opossum Creek.

If Ohio really is serious about taking over the EPCRA notification process for local responders and communities in the event of oil and gas based emergencies, then the State must follow the Federal and regional protocol that has long been established and the Ohio Revised and Administrative Codes should reflect that effort. Currently, and since 2001, Ohio has been in violation of EPCRA requirements as it relates to oil and gas. The sections included in this Budget Bill go no further to rectifying the situation.

Please read my longer original testimony to the Ohio House of Representatives for further explanations and documentation of my statements. This concludes my amended testimony. I am not planning to provide a shorter testimony in person and as such will not be personally available at the Statehouse for questioning. I may be able to provide testimony in person to the full Finance Committee when those hearings are arranged. Until that point in time,

if the sub-committee needs any further clarification on these issues, I will be pleased to provide them.

Please feel free to contact me by email at weatherington-ri.1@osu.edu or by phone at 614-436-5248.

Respectfully submitted,

A handwritten signature in blue ink that reads "Julie Weatherington-Rice, PhD". The signature is written in a cursive style.

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